

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

CANDACE SMITH,

Plaintiff,

v.

MCDONALDS INCORPORATED, et al.,

Defendants.

Case No. 1:24-cv-00204-KES-SAB

ORDER DENYING PLAINTIFF'S  
APPLICATION TO PROCEED *IN FORMA*  
*PAUPERIS* WITHOUT PREJUDICE

(ECF No. 8)

Candace Smith, proceeding *pro se*, filed a complaint in this action on February 15, 2024. (ECF No. 1.) Plaintiff did not pay the filing fee and instead filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF No. 2.) On February 15, 2024, Plaintiff filed an incomplete application to proceed *in forma pauperis* wherein she stated she was currently employed but failed to state her take-home salary or wages. (*Id.*) The Court denied Plaintiff's application without prejudice and ordered her to either file a completed application or pay the filing fee. (ECF No. 3.)

On February 23, 2024, Plaintiff filed a second short form application to proceed *in forma pauperis*. (ECF No. 4.) However, Plaintiff stated she was not employed due to a car accident as of February 7, 2024, which is a different response than that provided in her first application filed on February 15, 2024. (ECF No. 4.) Plaintiff also responded "no" to question number 3(a) requesting information regarding whether she has received income from a business, profession, or other self-employment in the past twelve months. (*Id.*) If Plaintiff was employed "as of February 7, 2024" as stated in question two, she should have indicated her income in the past

1 twelve months in response to question three. Accordingly, on February 26, 2024, the Court  
2 issued an order stating it cannot determine from the information provided in both short form  
3 applications whether Plaintiff is entitled to proceed in this action without prepayment of fees.  
4 (ECF No. 5.) The Court therefore ordered Plaintiff to complete and file an Application to  
5 Proceed in District Court Without Prepaying Fees or Costs (Long Form) – AO 239 or,  
6 alternatively, pay the filing fee in this action within thirty days. (Id. at 2.) Plaintiff failed to file  
7 a long form application or pay the filing fee within thirty days pursuant to the Court’s order.

8 On April 8, 2024, the Court issued findings and recommendations recommending  
9 Plaintiff’s action be dismissed for failure to comply with the Court’s order for failing to timely  
10 file a long form *in forma pauperis* application, failure to prosecute, and failure to pay the filing  
11 fee. (ECF No. 6.) The findings and recommendations were served on Plaintiff and contained  
12 notice that any objections thereto were to be filed within fourteen (14) days after service. (Id. at  
13 4.) The Court also advised Plaintiff that she may still file an application to proceed *in forma*  
14 *pauperis* during the objection period and the Court will consider the application. (Id.)

15 On April 22, 2024, the final day of the objection period, Plaintiff filed a third short form  
16 application to proceed *in forma pauperis*. (ECF No. 8.) Plaintiff’s third short form application  
17 suffers from the same deficiencies as her first and second and does not provide the Court with  
18 sufficient information to determine whether Plaintiff is entitled to proceed in this action without  
19 prepayment of fees. Further, the Court’s February 26, 2024 order required Plaintiff to file a long  
20 form application, which the Court attached to its order. (ECF No. 5.) Plaintiff still has not  
21 complied with the Court’s order requiring completion and submission of a long form *in forma*  
22 *pauperis* application, or, alternatively, payment of the filing fee in full.

23 Accordingly, the Court’s February 26, 2024 order that Plaintiff complete and file an  
24 Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) – AO  
25 239 remains outstanding. (ECF No. 5.) However, the Court will, as a courtesy, extend the  
26 deadline to file objections to the Court’s pending findings and recommendations (ECF No. 8) by  
27 an additional fourteen (14) days. Within that time period, Plaintiff may file objections to the  
28 Court’s findings and recommendations or pay the filing fee in this action. Plaintiff may still file

an application to proceed file an **Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) – AO 239** during the objection period and the Court will consider the application.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 8) is DENIED without prejudice;
2. The Clerk of the Court is directed to forward a courtesy copy *in forma pauperis* application (Long Form) to Plaintiff; and
3. The Court shall extend the deadline to file objections to the findings and recommendations (ECF No. 6) by **fourteen (14) days** after entry of this order.

IT IS SO ORDERED.

Dated: **April 24, 2024**

  
UNITED STATES MAGISTRATE JUDGE